

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Melody L. Williams,	:	Case No. 3:15-cv-00388
	:	
Plaintiff,	:	District Judge Thomas M. Rose
	:	Magistrate Judge Sharon L. Ovington
vs.	:	
	:	
Ohio Department Of Rehabilitation	:	
And Corrections, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

This case is before the Court upon Plaintiff's Motion for Sanctions (Doc. #49), Defendants' Response in Opposition (Doc. #51), Plaintiff's Reply (Doc. #52), Plaintiff's inmate account statements (Doc. #s 41, 50), and the record as a whole.

On November 24, 2015, this Court granted Plaintiff leave to proceed *in forma pauperis*. (Doc. #6). Because Plaintiff lacked sufficient funds in her prison account to pay the entire filing fee, the Court assessed an initial partial filing fee of \$32.43 and monthly payments of equaling 20% of her preceding month's income credited to her prison account (each time her account balance exceeds \$10.00) until the full amount of the filing fee is paid. (Doc. #6, p.2, *PageID* #166); *see* 28 U.S.C. §1915(a).

Plaintiff seeks an award of sanctions against Defendants for their failure to comply with the Court's Order. She asserts that Defendants failed to calculate and pay the Clerk of Court the amounts required by the Court's Order until January 20, 2017. Plaintiff is

correct that a significant delay occurred between the date of the Court's Order and the date the Court-ordered payments began. As of September 206, 2016, no portion of the filing fee had been paid to the Clerk. The Court therefore ordered Defendants to "provide a certified copy of Plaintiff's prisoner account since November 24, 2015, showing all receipts and disbursements." (Doc. #39, p. 2, *PageID* # 482).

In response, Defendant complied with the Order and explained that the institutions where Plaintiff was incarcerated (first, Dayton Correctional Institution; later and presently, Ohio Reformatory for Women) had received a copy of the Court's original Order that required Plaintiff pay an initial filing fee plus monthly payments. (Doc. #41). Defendants then corrected the problem. *Id.* Plaintiff's payments began as follows:

Date	Withdrawal Amount (\$)	Withdrawal Type
1/13/2017	32.43	initial filing fee
1/18/2017	91.82	monthly payment
2/2/2017	18.60	monthly payment
2/3/2017	3.60	monthly payment

Plaintiff is correct on two points. First, no funds were withdrawn from her account for her required filing-fee payments in November or December 2016. There was, however, no misconduct by Defendants since, as a practical matter, it took a reasonable length of time to get the ball rolling after the Court's Order. That is, it took some time for Defendant to properly communicate the Court's Order to the responsible person at the Ohio Reformatory for Women and, in turn, for that person to effect the required payments.

Second, Plaintiff is correct that the \$91.82 withdrawn on 1/18/2017 was more than 20% of the preceding month's income credited to her prison account. Her preceding month's income, in December 2016, totaled \$208.00 ($100+18+90 = \208). (Doc. #50, p. 2, *PageID* #541). Twenty percent of this is \$41.60 ($208 \times .20 = \41.60). Consequently, it appears that Plaintiff's monthly payment for January 2017 of \$91.82 was more than 20% of the income credited to her account in December 2016.¹

This, however, reveals no sanctionable actions by Defendants. At most, it constituted an arithmetic error resulting in a single monthly withdrawal that was about \$50.00 above 20% of her previous month's (December 2016) income. ($91.82 - 41.60 = \$50.22$). In terms of the instant case, this caused no prejudice to Plaintiff because Court records reveal that Plaintiff paid a total of \$114.02 on February 10, 2017. This constituted a payment of the \$91.82 plus additional February 2017 withdrawals from Plaintiff's prison account of \$18.60 and \$3.60 ($91.82 + 18.60 + 3.60 = \$114.02$). The Court has therefore received all of the money withdrawn from Plaintiff's prison account in January and February 2017 for partial payment of her filing fee in this case. The extra \$50.00 withdrawn from her account in January 2017 was doubtlessly inconvenient, if not troublesome, for Plaintiff. However, it is also benefits her by resulting in an earlier final pay-off date of the full amount she must satisfy for payment of the filing fee in the present case. She has not otherwise alleged that the withdrawal caused her prejudice in this case or resulted from any sanctionable misconduct by Defendants.

¹ The withdrawal of \$91.82 on 1/18/2017 was also more than 20% of the income in Plaintiff's account from December 1, 2016 up to January 18, 2017 ($\$319.00 \times .20 = \63.80).

A different issue arises from Plaintiff's notes on the copy of her prison account statement. (Doc. #50). She notes that her remaining balance, she means the remaining amount she owes for the filing fee in this case, is \$275.75. This is correct as of February 1, 2017:

Filing Fee	\$400.00
Initial Partial Payment	- 32.43
Monthly Payment	- 91.82
Remaining Balance	\$275.75

It should be recognized that Plaintiff's prison account indicates she owed an additional \$25.00 to this Court in January 2017. (Doc. #50, pp. 3, 5, *PageID* #s 542, 544). This was the initial partial fee assessed due in a different case she brought *in forma pauperis* in this Court. *Id.* at p. 5, *PageID* #544 (referring to *Melody L. Williams v. Ohio Dept. of Rehab. and Corrections, et al.*, 3:16cv384). Her prison account correctly reflects that the total remaining balance she owed for the filing fees in both cases, as of January 18, 2017, was \$392.57 ($367.57 + 25.00 = \392.57). *Id.* at pp. 3, 5, *PageID* #s 542, 544. Again, the records are accurate and reveal no misconduct by Defendants.

Accordingly, Plaintiff has not established that sanctions are warranted against Defendants. Plaintiff's Motion for Sanctions (Doc. #49) is therefore DENIED.

April 26, 2017

s/Sharon L. Ovington

Sharon L. Ovington

United States Magistrate Judge